



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

MAY 17 2011

Robert Lowell, Environmental Section Chief
Department of Conservation and Recreation
251 Causeway Street, Suite 600
Boston, Massachusetts 02114

Re: PCB Risk-Based Approval under § 761.61(c) and § 761.79(h)
Allied Veterans Memorial Pool, Everett, Massachusetts

Dear Mr. Lowell:

This is in response to the Notification¹ by the Department of Conservation and Recreation (DCR) for approval of a risk-based plan to address PCB contamination at the Allied Veterans Memorial Pool located at 65 Elm Street in Everett, Massachusetts (the Site). The Site contains PCB caulk and PCB-contaminated concrete and soils that exceed the allowable PCB levels under the federal PCB regulations at 40 CFR §§ 761.20, 761.61 and 761.62.

DCR has proposed a plan under the PCB risk-based option at 40 CFR § 761.61(c) and § 761.79(h) that includes the following major activities:

- Remove and dispose of *PCB bulk product waste* (i.e. caulk) in the main pool expansion joints with encapsulation of the joints with 2 coats of an epoxy coating and installation of new caulk/backer rod
- Remove replacement caulk from original decking concrete expansion joints, and encapsulate expansion joints with 2 coats of an epoxy coating and new caulk/backer rod
- Encapsulate the original decking concrete located adjacent to the expansion joints where PCBs are greater than (>) 1 parts per million (ppm) with 2 coats of an epoxy coating or other liquid coating system
- Encapsulate the lower portion of the east wall of the bath house with 2 coats of an epoxy coating or other liquid coating system

¹

Information was submitted by GEI Consultants, Inc. to support a risk-based disposal approach for *PCB remediation waste* under 40 CFR § 761.61(c) and § 761.79(h). Information was provided dated February 18, 2011 (Risk-Based Cleanup Plan); April 6, 2011 (Addendum to Risk-Based Cleanup Plan); May 5, 2011 (e-mail modifications to decking concrete and joint encapsulation plans); and May 11, 2011 (e-mail modifications to decking concrete and joint encapsulation plans). These four submittals will be referred to as the "Notification."

- Dispose of, in-place, PCB-contaminated soils with greater than ($>$) 1 ppm that are located beneath the concrete decking expansion joints
- Establish a long-term monitoring and maintenance plan (MMIP) for the encapsulated surfaces and for the concrete decking
- Record a deed restriction to document the PCB concentrations at the Site, the use restrictions, and the long-term maintenance and monitoring requirements.

DCR has determined that the paint located in the main pool which has PCB concentrations at less than ($<$) 50 ppm, meets the criteria for an *Excluded PCB Product* under § 761.3. Under the PCB regulations, *Excluded PCB Products* are authorized for use and thus there is no requirement for removal of the paint or for decontamination of surfaces that are in contact with the < 50 ppm paint. DCR has also determined that the one (1) concrete sample with > 1 ppm which was collected from within 1-inch of the main pool expansion joints was likely associated with the paint and not the caulk. Thus, the main pool paint and associated concrete surfaces are not addressed in the Approval. In the Notification DCR indicates that it plans to conduct monitoring of the pool's painted surfaces for PCBs annually. If PCBs at $> 1 \mu\text{g}/100 \text{ cm}^2$ are found in the samples, the pool surfaces will be repainted.

Based on the EPA's review, the information provided meets the Notification requirements under § 761.61(a)(3) and § 791.79(h). EPA finds that the proposed encapsulation of PCB contaminated *porous surfaces* should effectively prevent direct exposure of these PCB contaminated *porous surfaces* to Site users provided the coatings are maintained. EPA also finds that the in-place management of PCB-contaminated soil beneath the existing decking will not present an unreasonable risk to public health or the environment provided the decking is maintained. As such, EPA may approve the encapsulation and the in-place soil disposal under § 761.61(c).

DCR may proceed with its project in accordance with 40 CFR § 761.61(c); § 761.62(a); § 761.79(h); its Notification; and, this Approval, subject to the conditions of Attachment 1.

Please be aware that EPA expects the work specified in the Notification and authorized by this Approval to be implemented and completed prior to the opening of the pool for the swimming season. This Approval requires DCR to submit the results of the post-encapsulation wipe sampling results to EPA prior to the pool opening (see Attachment 1, Condition 13).


This Approval may be revoked, suspended and/or modified as described in Attachment 1 if the EPA determines that implementation of this Approval may present an unreasonable risk of injury to health or the environment. EPA is reserving its rights to require additional investigation or mitigation measures should the results of the initial post-encapsulation sampling or the long-term monitoring sampling indicate an unreasonable risk to Site users. Nothing in this Approval is intended or is to be construed to prejudice any right or remedy concerning PCBs or other federally-regulated contaminants at the Site otherwise available to the EPA under Section 6 of TSCA, 15 U.S.C. 2605, 40 CFR Part 761, or other provisions of federal law.

Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Mail Code: OSRR07-2
Boston, Massachusetts 02109-3912
Telephone: (617) 918-1527
Facsimile: (617) 918-0527

EPA shall consider this project complete only when it has received all documents required under this Approval, with the exception of the long-term monitoring results required under Attachment 1, Condition 19.c. Should you have any questions on this matter, please contact Kimberly Tisa at (617) 918-1527.

Sincerely,


James T. Owens III, Director
Office of Site Remediation & Restoration

cc: L. Lombardo, GEI
MassDEP RTN: 3-29771
File

Attachment 1

ATTACHMENT 1

PCB RISK-BASED DISPOSAL APPROVAL CONDITIONS ALLIED VETERANS MEMORIAL POOL 65 ELM STREET, EVERETT, MASSACHUSETTS

GENERAL CONDITIONS

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to the *PCB bulk product waste* and the *PCB remediation waste* located at the Allied Veterans Memorial Pool (the Site) and described in the Notification.⁽²⁾ This Approval does not address the less than (<) 50 parts per million (ppm) paint in the main pool which the Massachusetts Department of Conservation and Recreation (DCR) has determined to be an *Excluded PCB Product*.
2. DCR shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the abatement plan described in the Notification differs from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. DCR must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during implementation of these cleanup activities, DCR shall contact EPA within 24 hours for direction on PCB cleanup and sampling requirements.
6. DCR is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time DCR has or receives information indicating that DCR or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.

⁽²⁾ Information was submitted by GEI Consultants, Inc. to support a risk-based approach for *PCB remediation waste* under 40 CFR § 761.61(c) and § 761.79(h). Information was provided dated February 18, 2011 (Risk-Based Cleanup Plan); April 6, 2011 (Addendum to Risk-Based Cleanup Plan); May 5, 2011 (email modifications to decking concrete and joint encapsulation plans); and May 11, 2011 (email modifications to decking concrete and joint encapsulation plans). These four submittals will be referred to as the "Notification."

7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by DCR are authorized to conduct the activities set forth in the Notification. DCR is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release DCR from compliance with any applicable requirements of federal, state or local law; or 3) release DCR from liability for, or otherwise resolve, any violations of federal, state or local law.

NOTIFICATION AND CERTIFICATION CONDITIONS

9. This Approval may be revoked if the EPA does not receive written notification from DCR of its acceptance of the conditions of this Approval within 10 business days of receipt.
10. DCR shall notify EPA in writing of the scheduled date of commencement of on-site activities at least 1 business day prior to conducting any work under this Approval.
11. Prior to initiating onsite work under this Approval, DCR shall submit the following information for EPA review and/or approval:
 - a. a certification signed by its selected abatement contractor, stating that the contractor(s) has read and understands the Notification, and agrees to abide by the conditions specified in this Approval;
 - b. a certification signed by the selected analytical laboratory, stating that the laboratory has read and understands the sample extraction and analysis requirements, and the quality assurance requirements specified in the Notification and in this Approval; and,
 - c. a contractor work plan, prepared and submitted by the selected contractor(s), detailing the procedures that will be employed for removal of PCB-contaminated materials and for containment and air monitoring during removal activities. This work plan should also include information on waste storage, handling, and disposal for each waste stream type and for equipment decontamination.

CLEANUP AND DISPOSAL CONDITIONS

12. To the maximum extent practical, engineering controls, such as barriers, and removal techniques, such as the use of HEPA ventilated tools, shall be utilized during removal processes. In addition, to the maximum extent possible, disposable equipment and materials, including PPE, will be used to reduce the amount of decontamination necessary.
13. PCB-contaminated materials shall be removed and/or decontaminated, and verification sampling and analysis shall be conducted as described below:
 - a. All visible caulk shall be removed and PCB-contaminated *porous surfaces* (i.e. concrete) shall be encapsulated as described in the Notification.
 - (1) Wipe sampling of encapsulated *porous surfaces* shall be performed on a surface area basis by the standard wipe test as specified in 40 CFR § 761.123 (i.e. $\mu\text{g}/100\text{ cm}^2$) and at the frequency detailed in the Notification.
 - (2) Chemical extraction for PCBs shall be conducted using Method 3500B/3540C of SW-846 and chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another method(s) is validated according to Subpart Q. The laboratory reporting limit shall be less than or equal to (\leq) $1\text{ }\mu\text{g}/100\text{ cm}^2$.
 - (3) In the event that the PCB result for **any** surface wipe sample is greater than ($>$) $1\text{ }\mu\text{g}/100\text{ cm}^2$, DCR shall contact EPA for further discussion and direction on alternatives and/or additional sampling requirements.
 - (4) Analytical results of the post-encapsulation surface wipe sampling shall be submitted to EPA at least 2 business days prior to opening of the pool for the swimming season.
 - b. DCR shall submit a monitoring and maintenance implementation plan (MMIP) to monitor the long-term effectiveness of the encapsulants and the concrete decking in reducing exposure to Site users (see Condition 19).

14. PCB waste (at any concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with 40 CFR § 761.40; stored in a manner consistent with 40 CFR § 761.65; and, disposed of in accordance with 40 CFR § 761.61 or § 761.62, unless otherwise specified below.
 - a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g)(6).
 - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
 - c. PCB-contaminated water generated during decontamination shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.60.

DEED RESTRICTION AND USE CONDITIONS

15. Within 60 days of completion of the activities described in the Notification and authorized by this Approval, and as required under § 761.61(a)(8)(i)(B), DCR shall submit to EPA a certification, signed by an approving official, that the notation on the deed has been recorded as required under § 761.61(a)(8)(i)(A). A copy of the notation on the deed must also be submitted. The notation on the deed shall include: a description of the extent and levels of contamination at the Site following remediation; a description of the actions taken at the Site; a description of the use restrictions for the Site; and the long-term monitoring and maintenance requirements on the Site. The long-term monitoring and maintenance shall include: a description of the activities that will be conducted, including inspection criteria, frequency, and routine maintenance activities; sampling protocols, sampling frequency, and analytical criteria; and EPA reporting requirements (see Condition 19).
16. DCR and any subsequent owner, lessee, or transferee seeking the benefit of this Approval, shall notify the EPA of the sale, lease or transfer of any portion of the Site, in writing, no later than thirty (30) days prior to any sale, lease or transfer. This notification shall include the name, address, and telephone number of the new owner(s), lessee(s) or transferee(s). In the event that DCR sells, leases, or transfers any portion of the Site, DCR shall continue to be bound by all the terms and conditions of this Approval, except as provided below. EPA may allocate some or all of this Approval's responsibilities to a new owner, lessee or transferee through the issuance of a modification of this Approval ("New Owner Modification") as follows:

- a. DCR and the new owner(s), lessee(s) or transferee(s) must request, in writing, that the EPA issue a New Owner Modification to the new owner(s), lessee(s) or transferee(s) which transfers some or all responsibilities to comply with the terms and conditions of this Approval to that entity or entities;
 - b. The EPA reviews the request, and determines whether to issue a New Owner Modification;
 - c. EPA provides a draft New Owner Modification for comment by the requesting party(ies) and, following its receipt and review of any written comments, EPA shall provide the final New Owner Modification to the party(ies); and,
 - d. The new owner(s), lessee or transfer entity provides written notification to the EPA of its acceptance of and intention to comply with the terms and conditions of the final New Owner Modification. The New Owner Modification may be withdrawn if the EPA does not receive written notification from the new owner(s), lessee(s) or transferee(s) of its acceptance of, and intention to comply with, the terms and conditions of the New Owner Modification within thirty (30) days of the date of the New Owner Modification. Under such circumstances, all terms and conditions of this Approval will continue to be binding on DCR.
17. In the event that the sale, lease or transfer of the Site will involve or result in a change in the use of the Site, EPA may revoke, suspend, and/or modify this Approval or the New Owner Modification if it finds, due to the change in use, that this risk-based action will not be protective of health or the environment. The new owner shall record any amendment to the deed restriction, resulting from any approved modification(s), within sixty (60) days of such change(s). To be effective in amending the original deed restriction as it may apply to DCR, the New Owner must secure the agreement and consent of DCR to amend the deed restriction, and obtain any necessary subordinations of prior recorded interests that may be affected by the terms of the amended deed restriction.
18. In any sale, lease or transfer of the Site, DCR shall retain sufficient access rights to enable it to continue to meet the obligations under this Approval for long-term maintenance and monitoring of the Site, except as provided otherwise in a re-issued approval.

INSPECTION, MONITORING, MODIFICATION AND REVOCATION CONDITIONS

19. Within 30 days of completion of the work authorized under this Approval, DCR shall submit for EPA's review and approval, a detailed MMIP for the *porous surfaces* coating(s) and for the concrete decking. DCR shall incorporate any changes to the MMIP required by EPA.
 - a. The MMIP shall include: a description of the activities that will be conducted, including inspection criteria, frequency, and routine maintenance activities; sampling protocols, sampling frequency, and analytical criteria; and reporting requirements.
 - b. The MMIP shall include a worker training component for maintenance workers or for any person that will be conducting work that could impact the *porous surfaces* coatings or the concrete decking.
 - c. DCR shall submit the results of these long-term monitoring and maintenance activities to EPA. Based on its review of the results, EPA may determine that modification to the MMIP is necessary in order to monitor and/or evaluate the long-term effectiveness of the coatings and/or the concrete decking.
 - d. Activities required under the MMIP shall be conducted until such time that EPA determines, in writing, that such activities are no longer necessary.
20. Any modification(s) in the plan, specifications, or information submitted by DCR, contained in the Notification, and forming the basis upon which this Approval has been issued, must receive prior written approval from the EPA. DCR shall inform the EPA of any modification, in writing, at least ten (10) days prior to such change. No action may be taken to implement any such modification unless the EPA has approved of the modification, in writing. The EPA may request additional information in order to determine whether to approve the modification.

If such modification involves a change in the use of the Site which results in exposures not considered in the Notification, the EPA may revoke, suspend, and/or modify this Approval upon finding that this risk-based cleanup and disposal action may pose an unreasonable risk of injury to health or the environment due to the change in use. EPA may take similar action if the EPA does not receive requested information needed from DCR to make a determination regarding potential risk.
21. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

22. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
23. Approval for these activities may be revoked, modified or otherwise altered: if EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; if EPA finds that these activities present an unreasonable risk to public health or the environment; or if EPA finds that there is migration of PCBs from the Site. DCR may apply for appropriate modifications in the event new rules, standards, or guidance comes into effect.
24. DCR shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by DCR to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.

RECORDKEEPING AND REPORTING CONDITIONS

25. DCR shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K. A written record of the implemented abatement activities and the analytical sampling shall be established and maintained by DCR in one centralized location, until such time as EPA approves in writing a request for an alternative disposition of such records. All records shall be made available for inspection to authorized representatives of EPA.
26. As required under Condition 19 of this Approval, DCR shall submit the results of the long-term monitoring and maintenance activities to EPA as specified in the final MMIP to be approved by EPA.
27. DCR shall submit a Final Completion Report (Report) to the EPA within 120 days of completion of the activities described under this Approval. At a minimum, this Report shall include: a discussion of the project activities, including any modifications that were made to the abatement plan; characterization and post-abatement sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCBs removed and disposed off-site; copies of manifests and/or bills of lading; and, copies of certificates of disposal or similar certifications issued by the disposer, if applicable.

28. Required submittals shall be mailed to:

Kimberly N. Tisa, PCB Coordinator
United States Environmental Protection Agency
5 Post Office Square, Suite 100 (OSRR07-2)
Boston, Massachusetts 02109-3912
Telephone: (617) 918-1527
Facsimile: (617) 918-0527

29. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self-disclosure or penalty policies.

END OF ATTACHMENT 1

